

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

GARY SMITH, )  
                  )  
Plaintiff,     )       **8:12CV38**  
                  )  
vs.             )       **ORDER**  
                  )  
RAUSCH, STURM, ISRAEL, ENERSON    )  
& HORNIK, LLC, and                  )  
EQUABLE ASCENT FINANCIAL, LLC     )  
                  )  
Defendants.    )

This matter is before the court *sua sponte*, and pursuant to [NECivR 41.2](#), which states in pertinent part: "At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution." In this case the complaint was filed on January 24, 2011. See [Filing No. 1](#). The plaintiff filed a notice of executing a summons on one of the two defendants February 10, 2012. See [Filing No. 5](#). No other progress has taken place in this matter. It remains the plaintiff's duty to go forward in prosecuting the case by, for example, filing a motion for clerk's entry of default pursuant to [Fed. R. Civ. P. 55](#) and [NECivR 55.1\(a\)](#), as appropriate. Upon consideration,

**IT IS ORDERED:**

The plaintiff shall have until the close of business **on May 10, 2012**, to file a motion for clerk's entry of default or show cause why this case should not be dismissed as against Rausch, Sturm, Israel, Enerson & Hornik, LLC, for failure to prosecute.

Dated this 26th day of April, 2012.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge